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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,303	09/19/2000	John T. Santini Jr.	17648-0014	5521
29052	7590 07/17/2003			
SUTHERLAND ASBILL & BRENNAN LLP			EXAMINER	
	99 PEACHTREE STREET, N.E. TLANTA, GA 30309		THISSELL, JEREMY	
			ART UNIT	PAPER NUMBER
			3763	
			DATE MAILED: 07/17/2003	13

Please find below and/or attached an Office communication concerning this application or proceeding.

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	•	Application No.	Applicant(s)			
Office Action Summary		09/665,303	SANTINI JR. ET AL.			
		Examiner	Art Unit			
		Jeremy T. Thissell	3763			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
THE - External exte	ORTENED STATUTORY PERIOD FOR REIMAILING DATE OF THIS COMMUNICATIOn asions of time may be available under the provisions of 37 CFR SIX (6) MONTHS from the mailing date of this communication, period for reply specified above is less than thirty (30) days, a period for reply is specified above, the maximum statutory per re to reply within the set or extended period for reply will, by state ply received by the Office later than three months after the maid patent term adjustment. See 37 CFR 1.704(b).	N. 1.136(a). In no event, however, may a reply be reply within the statutory minimum of thirty (30) od will apply and will expire SIX (6) MONTHS tute, cause the application to become ABAND	ne timely filed days will be considered timely. from the mailing date of this communication. ONED (35 U.S.C. § 133).			
1) 🖾	Responsive to communication(s) filed on 6	5 May 2003 .				
2a)□		This action is non-final.				
3)						
Disposit	on of Claims	er Ex parte Quayle, 1955 C.D. 1	1, 453 O.G. 213.			
- 4)⊠	Claim(s) 1-26 and 42-55 is/are pending in t	he application.				
, ,	4a) Of the above claim(s) is/are withdrawn from consideration.					
	Claim(s) is/are allowed.					
6)⊠	Claim(s) <u>1.2,8-10,12,15-24,42-48,50,51 and</u>	1 53-55 is/are rejected.	·			
	Claim(s) 3-7,11,13,14,25,26,49 and 51 is/ai					
8) 🗆	8) Claim(s) are subject to restriction and/or election requirement.					
Applicat	on Papers					
9)[]	The specification is objected to by the Exam	iner.				
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.						
12)	The oath or declaration is objected to by the	Examiner.				
Priority under 35 U.S.C. §§ 119 and 120						
13)□	Acknowledgment is made of a claim for fore	eign priority under 35 U.S.C. § 11	9(a)-(d) or (f).			
a)	☐ All b)☐ Some * c)☐ None of:					
	1. Certified copies of the priority docum	ents have been received.				
	2. Certified copies of the priority docum	ents have been received in Appli	cation No			
Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.						
14) 🗌 A	acknowledgment is made of a claim for dome	estic priority under 35 U.S.C. § 1	19(e) (to a provisional application).			
a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.						
Attachmen	•		**************************************			
1) 🔯 Notic 2) 🔲 Notic	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449) Paper No(5) Notice of Inform	mary (PTO-413) Paper No(s) mal Patent Application (PTO-152)			
U.S. Patent and T PTO-326 (Re		Action Summary	Part of Paper No. 13			

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DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 1, 2, 8-10, 12, 15-24, 42-48, 50, 51, and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (WO 97/34697).

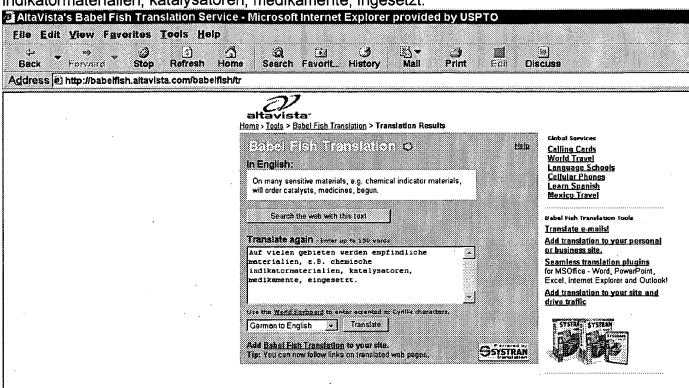
Note that this publication is written in German. Corresponding US Patent No. 6,114,658, may be used for reference as it seems to be a direct translation. The examiner has included several Babelfish translations (internet translator) of select paragraphs from the WO document, to demonstrate the correlation between the two documents. These are unofficial and imperfect, but are provided for a general idea, particularly with regard to several pertinent paragraphs. If the ensuing prosecution merits, an official translation may be obtained. However, for now, the examiner will refer to text in the US patent for purposes of convenience to both parties.

Roth teaches a multi-layer substrate having a reservoir with an encapsulated material, wherein the reservoir has a cap that is destroyed by an electrical heating element. (US '658: col. 2, lines 29-30) Roth does not explicitly state that the device contains a drug, but does teach that it is known in the art to encapsulate pharmaceuticals in this manner. (col. 1, line 10) Further it is well-known to implant such a drug-carrying microsystem into a patient. Further still, it is obvious to a skilled artisan to use any number of different drugs and controlled release patterns. Roth teaches a indicator material (aka diagnostic reagent) in the reservoir for sensing purposes.

WO 97/34697, Pg 1, Para 2, 1st Sent (compare translation to US '658 Col. 1, L. 9-

10)

Auf vielen gebieten werden empfindliche materialien, z.B. chemische indikatormaterialien, katalysatoren, medikamente, ingesetzt.



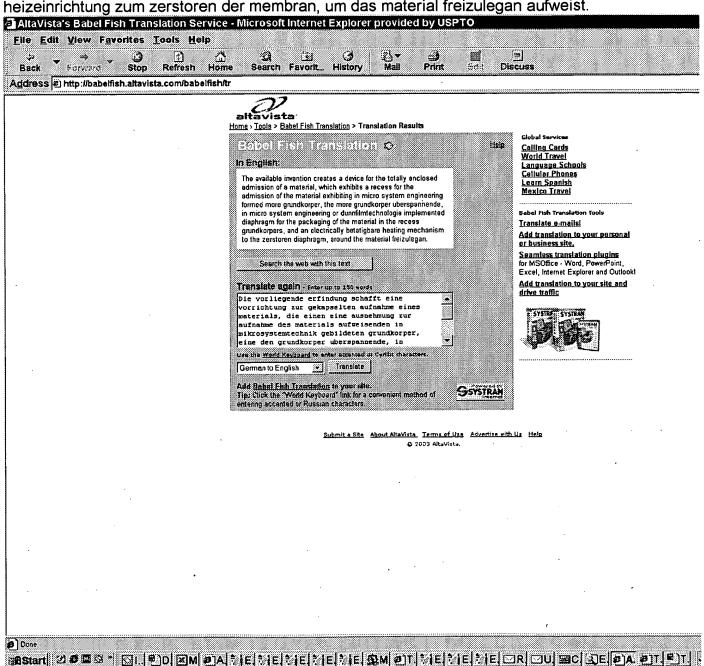
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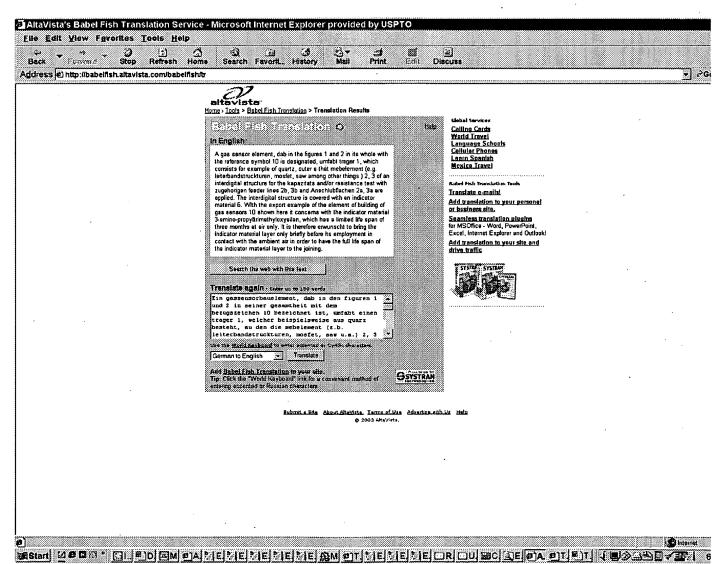
Page 3, last para (compar translation to '658 col. 2, lines 21-30, sp. lines 29-30).

Die vorliegende erfindung schafft eine vorrichtung zur gekapselten aufnahme eines materials, die einen eine ausnehmung zur aufnahme des materials aufweisenden in mikrosystemtechnik gebildeten grundkorper, eine den grundkorper uberspannende, in mikrosystemtechnik oder dunnfilmtechnologie implementierte membran zur kapselung des materials in der ausnehmung des grundkorpers, und eine elektrisch betatigbare heizeinrichtung zum zerstoren der membran, um das material freizulegan aufweist.



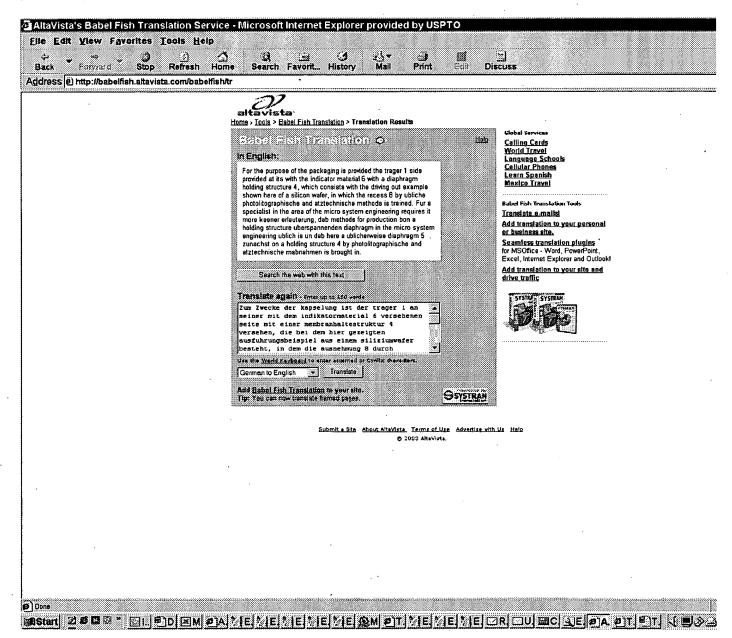
Page 5, last line—page 6, 1st paragraph (compare transl to '658 Col. 3, lin_s 29-45)

Ein gassensorbauelement, dab in den figuren 1 und 2 in seiner gesamtheit mit dem bezugszeichen 10 bezeichnet ist, umfabt einen trager 1, welcher beispielsweise aus quarz besteht, au den die mebelement (z.b. leiterbandstruckturen, mosfet, saw u.a.) 2, 3 einer interdigitalstruktur zur kapazitats- und/oder widerstandsmessung mit zugehorigen verbindungsleitungen 2b, 3b und Anschlubflachen 2a, 3a aufgebracht sind. Die Interdigitalstruktur ist mit einem indikatormaterial 6 bedeckt. Bei dem hier gezeigten Ausfuhrungsbeispiel des gassensorbauselementes 10 handelt es sich bei dem indikatormaterial um 3-amino-propyltrimethyloxysilan, welches an luft nur eine begrenzte lebensdauer von drei monaten hat. Es ist deshalb erwunscht, die indikatormaterialschicht erst kurz vor ihrem einsatz in kontakt mit der umgebungsluft zu bringen, um die volle lebensdauer der indikatormaterialschicht zur verfugung zu haben.



Page 6, first full para (compar '658 col. 3, lines 46-61)

Zum Zwecke der kapselung ist der trager 1 an seiner mit dem indikatormaterial'6 versehenen seite mit einer membranhaltestruktur 4 versehen, die bei dem hier gezeigten ausfuhrungsbeispiel aus einem siliziumwafer besteht, in dem die ausnehmung 8 durch ubliche photolitographische und atztechnische methoden eingearbeitet ist. Fur einen fachmann auf dem gebiet der mikrosystemtechnik bedarf es keener erlauterung, dab methoden zur herstellung bon einer eine haltestruktur uberspannenden membran in der mikrosystemtechnik ublich sind un dab hierbei üblicherweise eine membran 5 zunachst auf eine haltestruktur 4 durch photolitographische und atztechnische mabnahmen eingebracht wird.



Allowable Subj ct Matter

Claims 3-7, 11, 13, 14, 25, 26, 49, and 51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

This action is being made NON-FINAL view of new grounds of rejection.

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Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy T. Thissell whose telephone number is (703) 305-5261. The examiner can normally be reached on 8:30-7:00 Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached at (703) 308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jt July 9, 2003 BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

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